

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 15,976  
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Appeal of )  
 )

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying her application for Medicaid. The issue is whether the petitioner is over income for benefits.

FINDINGS OF FACT

1. The petitioner lives with her husband and her twenty-two-year-old disabled son. The petitioner and her husband applied for Medicaid as a two person unit. Their son refuses to apply for Medicaid. The petitioner has SSI income of \$598.50 per month and her husband has net self-employment income of \$1,107.67 per month.

2. On May 7, 1999, the petitioner was mailed a notice that her Medicaid had been denied because she was over income.<sup>1</sup> The calculations provided by the Department indicate that the petitioner was given a deduction of \$586.33 per month from her husband's earned income (because of a disabled family member) and that her SSI income was subjected to a \$20.00 disregard given to SSI recipients.

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<sup>1</sup> The petitioner was also notified that the family was ineligible for VHAP benefits as well due to excess income. That denial was not appealed. The VHAP regulations set a cap of \$1357 for a family of two. P-2420(3)(A) The VHAP regulations do not contain the generous earned income disregards which the Medicaid program employs.

The total amount of income countable to the assistance group was \$1,099.84, the total of the two incomes minus the two disregards. That figure was in excess of the \$691.00 Medicaid monthly maximum for a two person household. The petitioner was notified that she could be eligible for Medicaid once the family incurs expenses of \$2,180.04 during a six month accounting period from April 1 to October 1, 1999. That figure was reached by taking the difference between \$691.00 (the protected income level) and \$1,099.84 (the countable income), or \$408.84, and multiplying it by the six month period, for a total of \$2,453.04. The family was then given credit for its Medicare premium of \$45.50 per month projected out over the six month period for another deduction of \$273.00.

3. The petitioner does not disagree with the income figures used by the Department. She disagrees with the decision, however, because it does not take into account her husband's medical expenses, which include prescriptions that cost \$2,300.00 per month and which are not covered by any insurance. He has not been taking the medication lately because he cannot afford to.

ORDER

The decision of the Department is affirmed.

REASONS

The Medicaid regulations count both SSI and earned income in determining eligibility subject to certain deductions found in the regulations. M. 240 et seq. Net income is determined for an applicant couple (where at least one member of the couple is disabled) by adding the total countable incomes together and subjecting the unearned income to a \$20.00 disregard and the earned income to a \$65.00 disregard and then one-half of the remaining amount. M243.1.

The calculations above show that the Department followed this regulation in determining the net countable income of \$1,107.67 per month. That figure is then compared to the highest applicable income test for a household of two to determine eligibility. M. 250. The highest applicable income test for the petitioner's household is \$691.00 per month, rendering the petitioner's family ineligible.

P-2420(B)(1). However, under the regulations, the petitioner can still become eligible if she meets a "spend-down" amount. That amount is determined by taking the monthly income in excess of the maximum income test and multiplying it by the six month certification period. M 250.1. This calculation was also performed correctly by the Department.

There is no regulation which takes into account the amount of medical expenses when determining initial eligibility. The "spend-down" amount established is that

amount which the Department expects that the recipient couple can take responsibility for themselves given their income. In this case, that amount is \$2,180.00. Once the couple has incurred that amount in medical expenses, they will become eligible for Medicaid coverage for the rest. Given the couple's monthly prescription expenses, they should meet their spend-down in the first month. The petitioner does not dispute that fact but says she has no way to pay for that first month's expenses. It is not hard to believe that assertion, given the family's limited income, but the petitioner should be aware that she only has to incur, nor pay for, those expenses to become Medicaid eligible. The petitioner is encouraged to discuss with a financial counselor how her family might be able to budget for payment of over \$4,000.00 in medical bills themselves each year. The petitioner should also be aware that she has a right to apply for General Assistance if she feels she has an emergency medical need which the family cannot meet and that she might want to investigate other programs operated by the Department such as VHAP-Pharmacy and VScript which help to pay for prescription medicines. As the Department's decision is in accord with its regulations, the decision denying Medicaid must be upheld. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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